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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,547	03/22/2001	Steven A. Bade	AUS9-2000-0833-US1	6463

7590 08/24/2004

EDMOND A. DEFRANK
20145 VIA MEDICI
NORTHRIDGE, CA 91326

EXAMINER

FLEMING, FRITZ M

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,547

Applicant(s)

BADE ET AL.

Examiner

Fritz M Fleming

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

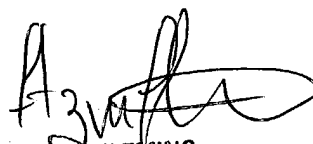
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


FRITZ FLEMING
PRIMARY EXAMINER
GROUP 2100

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The extensive amendments have resulted in the new grounds of rejection, presented below. In accordance with the previous Interview on 7/15/2004, no telephone call was placed prior to issuance of this office action, due to the complex issues raised. However, an interview after the details of this office action have been reviewed by applicant may be helpful in furthering prosecution of this case.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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3. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Turning to amended claim 1, such has been changed to include specific reference to:

- Accessing positional data related to the actual location from a database
- Transmitting at least a portion of the positional data that is associated with the specific location of the digital virtual domain of the electronic device.

The examiner has carefully reviewed the disclosure as originally filed, and sees that the indicated matter is new matter. It is to be noted that applicant did not provide any indication of support for the amended subject matter. For example, there seems to be no mention of a "database", as a text search of US

2002/0138598 reveals a single "hit" as follows:

Summary of Invention Paragraph - BSTX (8):

[0007] As such, there are limited business applications available that combine both the portability of these mobile devices with the capabilities of real-time positioning systems. As one example, although mobile electronic devices are small enough to provide portability and convenience in the workplace, current systems lack the power to provide the professional with independent data to work efficiently at a number of varying sites. In typical business environments, access to hard copy records and data can be burdensome and does not cover the range of possibilities that may arise with workplaces

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that have specific data related to specific locations. Similarly, manual interfacing with a PC is inconvenient and can cause time delays, especially if the database containing the records is relatively large.

Thus there has been no original disclosure or teaching as to how this database is accessed based upon the location and positional data. More importantly, it is unclear where such a database would be located and how such would interact with the disclosed device. At best, perhaps this is related to step 218, but this is the second module 114 accessing positional location data with an electronic association of the positional location data within a specific area of the virtual working domain. Actually, it appears as though the positional data is created internally to the device 104 at the first module 106 per step 214, as no access to a database is specifically set forth.

The "transmitting at least a portion of the positional data that is associated with the specific location of the digital virtual domain of the electronic device" is also not adequately defined in the original disclosure. For example, the only information that seems to be transmitted to the device 104 is that from the transmitter system 110, per step 214. It is this unclear as to what is meant by the "transmitting at least a portion of the positional data", as this has also not been adequately defined.

Also, there is a lack of literal antecedent basis in the disclosure for the amended first and second locations, making the defining of the digital virtual domain unclear, as to exactly what it is and how it is determined with specific second locations.

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Claims 8,18: There is no explanation, either in the originally filed disclosure or the response, as to what or where constitutes the "remote database". From the disclosure, it appears that the data is internal to the device itself at the second module 114, as this second module changes the predefined operations and interfaces, seemingly without accessing any sort of "remote database". Perhaps this is meant to encompass the figure 3 example and its mention in passing that patient record and data can reside on the device 304 or be transmitted thereto. A "transmitting thereto" is just that, and not the complex accessing and electronic association now claimed. As pointed out above, the "transmitting at least a portion of the positional data" is also lacking in support.

In order to either rebut the examiner's position, or support additional amended material, applicant is respectfully requested to provide a concrete indication of support of amended material in subsequent responses, so that any assessment of new matter can be rapidly and accurately ascertained.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Due to the above rejection of the claims, it is unclear exactly what the metes and bounds of the claims are to be. Accordingly, the rejection presented below is made as far as the claimed limitations can be understood.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glorikian.

As best as can be compared to the amended claim limitations, Glorikian teaches the following:

- Obviously, per Figure 3, a physical domain is shown at 69, with physical indoor exhibits as well as a digital representation thereof seen as the Cartesian reference system used to document the exhibits in a remote database. Column 7, lines 43-58.

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- The location of the user and hence device is dynamically determined.
Column 7, lines 59+.
- Positional data is then determined (col. 8, lines 16-26), and at least a portion of this position is transmitted to the device (i.e. multiple stations and triangulation, col. 8, lines 1+) as well as to the remote database 13 so as to be able to pull information and push it to the user (col. 8, lines 38+ and col. 8, lines 16-26), so that the positional data is used and automatically modifies the function of the device (i.e. information presented to user based upon actual location) as the user moves throughout the physical and virtual domains.
- A manufacturing plant is rendered obvious by the local industry of col. 7, lines 1-15, although such would be of historical significance, not precluded by the instant claim language.
- Manufacturing inspection data is rendered obvious by the ability to present data to the user based upon the location and nature of the information at the location. Thus the type of data presented depends on the location, and to provide the appropriate data is fairly taught and thus within the ordinary skill of the artisan.
- Operations and interfaces change upon location (i.e. indoor vs. outdoor) and particular location indoor (i.e. Figure 4).
- GPS is set forth in the abstract, and triangulation is mentioned above. 3-D location is mentioned at column 7, lines 54-58.

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- A positioning device is shown at 57. A control module is shown at 39 running software 42.
- A hospital and its associated patient records and pharma data is rendered obvious as being exemplary of the not limited to historical data, the type of information to be provided being selectable by the client (col. 6, lines 55+), such being readily available to the imagination of the skilled artisan.
- A secondary module is seen as the portion of the software 42 that performs such in accordance with the disclosure.
- Operation is disclosed on a computer, hence the computer readable medium is also rendered obvious.
- Multiple satellites for 3-D GPS positioning are shown at 33,35,37, as well as multiple indoor transmitters (col. 8, lines 1-10).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz M Fleming whose telephone number is 703-308-1483. The examiner can normally be reached on M-F, 0600-1500.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fritz M. Fleming
Primary Examiner
Art Unit 2182

fmf